

**Newton Planning Board
October 3, 2012
Special Meeting
7:00 PM**

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

FLAG SALUTE

MEMBERS PRESENT: Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Russo, Mr. Steinberg and Chairman Le Frois

EXCUSED

Mr. Marion, Mr. Tharp, Ms. Logan

RECUSED: Mr. Hardmeyer, Mrs. Diglio, Mr. Ricciardo

PROFESSIONALS PRESENT: David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, Jessica Caldwell, P.P. of J. Caldwell & Associates, Paul W. Ferriero, PE, CME, Ferriero Engineering.

BOARD SECRETARY: Kathy Citterbart

OLD BUSINESS

Martorana Enterprises, LLC (#SPMSV-07-2012)

Block 2.05, Lot 13

104 Sparta Avenue

Formerly: Block 1201, Lots 5 & 5.03

100-110 Sparta Avenue

Applicant is requesting preliminary site plan approval, preliminary major subdivision approval and associated variances to construct 54 townhouses and six (6) low and moderate income apartments.

Mr. Anthony Fiorello, Esq. representing Martorana Enterprises, LLC.

Mr. Fiorello sent a list of all variances & waivers for the professionals to review.

Mr. Soloway stated: You missed one. The sidewalk on both sides which is an RSIS waiver and RSIS Standard is incorporated in the Ordinance. The Ordinance does not specifically say both sides but it does say comply with RSIS and the Board will have to approve that anyway so I think that should be added.

Mr. Ferriero stated: I think technically under RSIS the term is dimension exception.

Ms. Caldwell stated that she is fine with it.

Mr. Fiorello stated: We hadn't planned on introducing any new testimony tonight. Ms. Fairclough is here tonight.

Lisa Fairclough previously sworn stated: She is licensed real estate agent in New Jersey. She is familiar with the application for a little over a year.

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Mr. Fiorello stated: Is it correct that you are familiar with the housing stock and you sell and market homes in the Newton vicinity?

Ms. Fairclough stated: Yes.

Mr. Fiorello asked: What would you say the current percentage of rentals is in the municipality?

Ms. Fairclough stated: The most recent rent/own ratio in Newton is 50% rental, 50% own.

Mr. Fiorello asked: Is there a need for a townhouse unit, condominium fashion within the Town of Newton?

Ms. Fairclough stated: Yes, I believe there is.

Mr. Fiorello asked: Is there industry coming in that you are familiar with that would make up well with townhome construction and marketing?

Ms. Fairclough stated: Yes, specifically Thorlabs has a huge new working population that needs housing and we can't satisfy their needs. There are not enough units available to satisfy the needs of the new workers.

Mr. Fiorello asked: Are they near this development?

Ms. Fairclough stated: Yes, they are ½ mile away.

Mr. Fiorello asked: Do you know how many employees Thorlabs will have?

Ms. Fairclough stated: About 1000. I have met and spoken with their Human Resources Manager. They did ask me to come with some financial people to do a presentation and they believe they would have many people interested immediately in this development.

Mr. Fiorello asked: In terms of pricing, what range of price do you figure these townhomes will sell for?

Ms. Fairclough stated: We are going to start at \$239,000 depending on amenities; it could go up. It will add a ratable for the Town.

Mr. Fiorello asked: Do you feel these units will sell well.

Ms. Fairclough stated: Yes.

Mrs. Mattingly asked: How do you plan on marketing the townhouses.

Ms. Fairclough stated: We are going to do an extensive marketing plan. We have talked to the radio stations, the newspapers and their internet marketing. We are going to partner with several banks in the area. We have spoken with Lakeland, Sussex, Well Fargo and First Hope. We have already started marketing.

Mrs. Mattingly asked: I have been looking in the newspaper and looking at what is for sale in the area, I understand for the most part people don't look at the paper; they look on-line at

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different sites. What I don't see is anything that shows Newton properties. I think you work for Weichert. There was nothing in the paper this week. I checked out Caldwell Banker and there was a fixer upper, a condo which is \$169,000 and a three family house which is a rental. How are you going to present Newton so that it is not all rentals and/or fixer uppers?

Ms. Fairclough stated: Currently, today there are 50 listings in Newton, some from \$60,000 up to \$400,000. From November to now there have been 42 sales; there are 10 listings under contract. Things are moving in Newton. The average prices of the recent sales were about \$178,000 which is fairly strong. I don't believe our prices range is out of the realm. A lot of the ones that sold were very low and brought the average down. A lot of them were rentals. Of the 50 that are listed there are some low ones and there are some high end ones. I think Newton is going through a Renaissance. You have Main Street, Spring Street, the hospital being bought out, and Thorlabs. There is a real need for housing and I can't provide it. The reason you are not seeing it in the newspaper is there aren't any realtors in Newton anymore. Most of them have moved out. I am in the process of opening up my own brokerage office. I am going to be based out of Newton and the greater Newton area. The movie theatre is great, Thorlabs has been wonderful and the hospital has new employees. These people need housing.

Ms. Mattingly stated: My concern is that these are going to become rentals just like Merriam Gateway. We have enough rentals.

Ms. Fairclough stated: At this price point they probably won't buy it as a rental. The mortgage will be high and the rental price probably won't cover the mortgage.

Mr. Torre stated: We are comparing apples to oranges. We are talking about apartment type buildings vs. homes.

Ms. Fairclough continued: What we are trying to build at Grande Villaggio is a community. We are trying to make it exclusive and create an ambiance that people want. I think Newton wants this. Even though I am not an appraiser, I do think it will enhance the surrounding property values to some degree. I do think if we sell eight or nine of these units over \$200,000 it can't but help the values on Pine Street.

Ms. Mattingly asked: What is the difference between these townhouses and Newton Commons?

Ms. Fairclough stated: First of all it is new construction so that is very appealing, they are going to be built to suit, you can come in and select all of your finishings. The other difference is where the interest rates are at right now is very favorable for sales. Newton Commons' pricing is very low but they are very run down. I don't think they are as favorable as our location. People do buy them to rent because the price is low. When we build this development and we have 56 units that have been sold that are owned it is going to eschew the ownership in Newton. It is going to change the way Newton is. I would like to get this approved because the time is now with the mortgage rates.

Mr. Flaherty stated: In the absence of doing this, there really is no other place to build in Newton; it would continue to be eschewed in the opposite direction towards rental in the absence of bringing in new housing stock, correct?

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Ms. Fairclough stated: I believe so. Lots of people are investing in rentals in Newton. I take people around all the time.

Mr. Steinberg asked: Would you be putting up the entire development all at once or one at a time?

Mr. Donohue stated: Phase I will be the three buildings, Phase II is the next two buildings along with renovations of the masonry building up front, and Phase III is the remaining four buildings.

Mr. Steinberg stated: Beyond Phase I what is the selling criteria that would prompt the Phase II buildings? Is there a certain amount of units that would have to be sold? I am asking this because some of the concern is having vacant units.

Mr. Martarana stated: We have agreed that we cannot go to the second Phase until all of Phase I is sold.

Ms. Fairclough stated: I am very confident that once we start marketing it we will be able to sell several units very quickly. I have had several people approach me and say let me know as soon as they go on the market.

Mr. Torre asked: Is it safe to say that if the presale is a total disaster and you don't sell anything than there is no construction underway.

Mr. Martarano stated: We would like to have the product up so people could see what they are buying. The first building will go up; Ms. Fairclough will model it out, and try to get some sales. Then the second would go up and then the third.

Ms. Fairclough stated: I am planning on opening up a Newton office immediately right at the Krave plaza to be on site to expedite the sales.

Mr. Soloway stated: Buried in the Newton ordinances is a provision that requires you to get separate permission for a construction trailer so I would recommend that you show it on your plans.

Mr. Donohue stated: That is a comment we are going to address.

Mr. Le Frois opened up this portion of the meeting up to the public.

1st Public

Previously Sworn: Andy Van Orden, 1 Linmor Avenue stated: If this were to be successful, I would one of the happiest people in the world. However, can you tell me how many people from Thorlabs have given you a concrete hard yes that they are interested in the buying a townhouse.

Ms. Fairclough stated: I had a preliminary meeting with them. You can't base the project on Thorlabs. I think there is a strong interest.

Mr. Van Orden asked: If they were going to go on the market tomorrow, how many names do you have that you can contact?

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Ms. Fairclough stated: I am not legally allowed to presale units without an approval. I don't have any names that I can share with you.

Mr. Van Orden stated: We are looking to approving 54 townhomes at a quarter million dollars behind a Quick Check, next to a swamp and in order for me to be comfortable, I need something more than we are pretty confident that this is going to sell. We were pretty confident Gateway and Aberlour were going to sell. I have a real fear that this is going to get built in Phase I, maybe sell Phase I and then no interest in Phase II and Phase III. The value of Phase I goes down and now we are right back to where what Mrs. Mattingly said about these things becoming rentals. I am sorry, but I need more than I feel pretty confident.

Ms. Fairclough stated: Again, I can't tell you what the market is going to do. I can't promise you that all 54 units will sale immediately. We are looking to do the project because we feel it will be successful but it will be built in phases.

Mr. Russo stated: The use variance has already been approved. The 54 townhomes are coming now it is a question of the site plan.

Mr. Van Orden stated: Congratulations Ms. Fairclough. To get the Board to approve that is commendable.

2nd Public

Previously Sworn: Kent Hardmeyer, 70 Pine Street asked: If I am a perspective buyer, what is going to attract me to buy this?

Ms. Fairclough stated: I think it is a higher end community. It is a made to order higher end product. It is brand new, you can tailor it to your specific wants as far as the composition of the interior, and the location is great.

Mr. Hardmeyer asked: What amenities will there be?

Ms. Fairclough stated: Are you familiar with the Round Top Development in Sparta, it is a comparable property in that it has higher end townhouses of a similar price point and it also has amenities such as a club house, which this one will have. We have seven park areas with benches. All of the properties have a rear yard and we can offer a patio or a deck.

Mr. Hardmeyer asked: What if you cannot sell the units for \$239,000?

Ms. Fairclough stated: If you look at the trend in the Newton market today, what has recently sold and what is under contract, the trend is the sale point is going up especially on the owned properties, the price point has gone up. I think the interest rates have something to do with that.

Chairman Le Frois stated: If we can try to keep the comments germane to the testimony that is being considered tonight and that is for site plan approval. The use variance is a done deal so whether or not townhomes are appropriate for the site is literally not under consideration as part of this application at this point.

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3rd Public

Previously sworn: Charles Brigg, 73 Pine Street, asked: What sizes are the decks going to be?

Ms. Fairclough stated: We are going to offer various options.

Mr. Briggs stated: It seems like we are crowded already. Will the decks be encroaching onto the setbacks?

Chairman Le Frois asked: I would like clarification from our professionals relative to what decks and patios are considered vs. the structure itself as far offsets.

Mr. Ferriero stated: They would have to meet the setbacks, but I believe there is room in all these units for a decorative patio.

Chairman Le Frois stated: This portion of the application that I opened up to the public was specifically to talk to Ms. Fairclough to discuss the real estate portion of the application. There will be another public portion of the application that is open to the public to make a statement or ask a question of the folks that are here.

With no further questions, Chairman Le Frois closed this portion of the meeting.

Chairman Le Frois reopened the meeting up for public comment.

Mr. Van Orden, 1 Linmor Avenue asked: We are asking to market a \$250,000 townhomes behind a Quick Check, next to swamp and I don't see the market supporting that at all. What I think would be a smarter move is if the application willing to scale it back, make the road wider put all the development on the inside and more of a common backyard much like what is in Columbia, Maryland. As it stands now, they are too big and too expensive. We have to stop in this Town this field of dreams, "If you build it they will come" mentality. I don't know how many times we have to get burned and have things built with the promise that they are going to sell and they are not going to sell. The other thing that bothers me is the applicant needs to show that this application is not a detriment to the public good, I think that if this is successful and all 54 homes do sell, you have just knocked the whole balance of the Master Plan out of whack between the commercial, light industrial and residential. If my fear does come true and you have a half developed area, the values are going to go down and they will pull down the values of the homes nearby. I think there are too many question marks and this is not the right plan for this area.

Mr. Kent Hardmeyer stated: My main concern is that we have 16 waivers/variances and I think that is too many. When this was initially approved, the applicant was handed the new ordinance and told to follow it. I don't think 16 variances show that he did a good of following it. Some of the buffering items still need more work. These proposals can be reconfigured. It is our job to look out for these people. Our job as Planners is we uphold our Code and we look out for the new neighborhood and the new community. I think granting 16 variances, I just doubt that we are doing that good of a job. We never did talk about the drainage facilities in the buffers and how that is going to be resolved. The Code strictly prohibits drainage facilities in the buffers but yet we have two or three of them in there. I don't know how they will be maintained. To me it seems like there is a lot to be done. Maximum lot coverage is 70% and that is for SD-4 zone (Industrial Zone). If you look at the lot coverage on our new variances, which we only approved five months ago, we ought to think real hard of approving something we want to give

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16 variances/waivers to. I don't understand why we are going with 75% in this area when other areas are 60% or 70%? If we went with something less, we might have more room for the buffers and could give the new neighbors of ours better protection and little more green in lieu of looking at the back of the Quick Check, the Krave, or the laundry mat. I think we need to do a better job. I would recommend to the Board they send these folks back to the drawing board and come up with something not so hard on the environment and gives a little more open space.

3rd Public

Previously sworn: Charles Brigg stated: Mr. Hardmeyer summed it up. It is too much. If we can scale it back a little bit. It seems like a lot of buildings in the area. I understand it. It is nice, but it just has to be scaled down a little bit. I have been looking at Beirut for a couple of years, anything would be a little bit better. That is a concern of mine before these buildings go up. There is going to be drainage where trees will be planted and I don't know how they are going to through concrete. Something has to be done with it now. Something needs to be done back there before it gets done. Other towns Stillwater, Andover, Sparta they get their fencing, get greens put up and then start construction. I am looking at rocks that are really big. I think it is too big and it needs to be scaled back a few buildings. If I can get some help with the grading, I will be more than happy to take my sign down, put my siding back on my shed and clean up. I asked for trees and they took everyone down. A whole forest was desecrated back there. Five logging trucks came in. It was only overgrown brush which was said in previous meeting. I hope you make the right decision and help the community that is there now.

With other public coming forward, Mr. Le Frois closed the public portion of the meeting.

Mr. Le Frois asked the Board members if they had any comments.

Mr. Flaherty asked: If there still an outstanding issue on the turning radius?

Mr. Ferriero stated: It was resolved.

Mr. Le Frois stated: Most of the variances/waivers are for the commercial property and not the residential property. I believe they purposely tried to incorporate comments and concerns of the Board and the public with the residential property which abuts the adjoining properties. That is a statement I wanted to make or an idea I wanted to put out there. I believe on the drainage structure that is within the buffer, it was my understanding that Mr. Donohue was going to work with Mr. Ferriero and get a mutually agreeable solution such that trees could be planted. We will make sure it is in the resolution that it will be addressed to the satisfaction of our engineer. Lastly, we live in the United States and property owners have the ability to do what they want to do with their properties within the law and within the regulations and ordinances of the Municipality in which the property exist. I believe that our role as the Planning Board is not to judge whether their decision is a good or poor business decision. Time will tell and hopefully Ms. Fairclough has a plan to make it a good business decision and it works out for the property owners. I think our job is to ensure that an appropriate development built to appropriate specifications within the law, within the ordinances and taking into account as much as we can within a reasonable effort by the property owner to address abutting property owner concerns and citizen concerns all with the requirement that it be done within regulation and with certain variances/waivers as deemed necessary by the Planning Board. I appreciate a lot of the

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comments regarding size, amenities of units but that is a business decision that they have full control over and not something the Planning Board should get involved in.

Mr. Torre stated: I came on this Planning Board because a client of mine was being shut down on Spring Street by the Historical Board. I had a complaint about that and went to the committee members to complain what was happening as a result of that I ended up on the Planning Board. The first application was for that client of mine and I did recuse myself but it got approved. Now it's a jewel on Spring Street. What I am excited about, being on this Planning Board, is what is happening in Newton now. We have a redevelopment zone over behind the Shoprite, we have Thorlabs. We are on the cusp of a lot of positive things happening in a down economy. What's failing in our Town is Spring Street. We need entrepreneurs to come in and help us with Spring Street. I commend the Martarana's on what they are doing. We need more entrepreneurs like this to come in and help to develop our town. I think it is a good project. I support it because it is a good fit for us and it is a good fit in conjunction with the Thorlabs project. Realistically are they going to sell out their development to Thorlabs, absolutely not, but I think it is a good jump start and I think it changes the tempo and the flavor of our community. We need more entrepreneurs in our Town. As long as they pay attention to our professionals and the requirements we have, I will be more supportive of development like this.

Mr. Flaherty stated: My history is like yours Mr. Torre. This is not a perfect project, not everything about it makes me happy, but I think it is a step in the right direction to bring something positive to the Town. I preferred it much more to the commercial development that was approved. I think this fits a need that the Town has for housing especially new housing for the new businesses coming into Town. As far as the prices and whether that is the right one or not, I would have to believe the applicant has done their research and they have spent a lot of money to get to this point. They do have to make a profit on it which has to be built into the cost of the project. I don't think they would price themselves out of the market. I don't think they are going into this to fail. They do not need that on their name. I think to the fact that this satisfies a real need, I would support it.

Mr. Steinberg stated: It seems to me that the absolute dooms day would be Phase I goes up and the market doesn't receive it well so there are a handful of vacancies but not an entire 54 units are built and vacant. I heard some comments about \$240,000-\$250,000, what ifs and dreams, and hopes pertaining to other developments that didn't do so well. The thought and belief that Newton can support this type of development is what is going to help us move forward vs. vacancies both lot and building and no belief in Newton, then we are stagnant.

Mr. Soloway stated: It has been mentioned that there are 16 variances/waivers and there also different aspects to this application. I don't think it is necessary to take 16 separate votes but I would like to take a straw poll of the Board because I can see the scenario where a Board member could be in favor of the project but not of a particular variance or waiver. This is both a preliminary subdivision and a preliminary site plan application. The subdivision has been a little over looked but a fair number of the variances and waivers that are being requested are bound up in the subdivision specifically the side yard setback between the commercial and residential portions, the maximum lot coverage is going to be on the remainder commercial lot only not on the residential lot. The landscape feature in the front parking lot is a commercial lot deviation and the buffer area requirements between residential and non-residential are really only between these two lots; not any outside lots. All of those items are a consequence of the subdivision and if that is where the lines are that is what you wind up with. No matter what I think should be voted on as one but then you have other things. You might want to get a feel

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from the Board if anyone has a problem with any of them in lieu of making it one vote. In terms of the variance/waiver list as updated by Mr. Donohue, there are perhaps three items on the list that are deviations from landscaping type requirements. From the first meeting there was a stipulation by the applicant that they would submit a detailed Landscaping Plan to be reviewed by Ms. Caldwell and Mr. Ferriero and that was subject to further review. If you grant the requested variances and/or waivers as to the landscaping items, it be on the condition that a detailed Landscaping Plan be submitted for review by the professionals and if the professionals suggested or required more they would have the right to impose that requirement and if the applicant disagrees with that then the applicant can come back at final and hash it out at that point. Unless something has changed, the applicant has agreed to do that. If you are going to make a separate motion for approval there a lot of conditions I suggest be considered as part of portion.

Chairman Le Frois asked if any Board members had any concerns with any specific variance such that we would need to vote on it separately.

Chairman Le Frois stated: There are no comments.

Mr. Soloway stated: On a reflection, if there is no desire for separate discussion, you do them as one vote. The subdivision should be contingent on the site plan.

Mr. Flaherty made a motion to grant preliminary subdivision approval, preliminary site plan approval, the granting of all of the variances and waivers that are listed on the September 25, 2012 variance waiver list submitted by Mr. Donohue plus from 240-7.H (2) from sidewalks on both sides which is an RSIS requirement. Everything on this list to be called out on the revised plans so that it is made very clear that all of the relief was granted. The Landscaping Plan to the satisfaction of Mr. Ferriero and Ms. Caldwell which would fill the objectives of section 240-7.A-4A of the ordinance that landscaping plan if recommended by them could also change the relief granted from the buffer landscaping/variances and waivers or at least some of them that are on the list. If the applicant is not agreeable to the recommended changes the dispute will be resolved by the Board at the time of final site plan. Cross Easement agreements to the satisfaction of the Board attorney/Town attorney and Mr. Ferriero. Creation of a Homeowner's Association and Homeowner's Association documents to the satisfaction of the Board and Town attorney and Mr. Ferriero and if recommended by the Town attorney that would also be approved by the Town Council as part of Developers Agreement as another condition. The applicant is going to consolidate four trash containers into two. They are to provide for guest parking at the intersection of Roads 2 and 3. They are going to comply with items 12 -16 in the August 9, 2012 report of Dolan and Dean and any other recommendations set forth in there. Revised plans to the satisfaction of Mr. Ferriero, bear proof dumpsters, no construction until after final site plan and final subdivision is granted. The townhome structures will be substantially similar to what is depicted in Exhibits A-6 and A-7. The majority of units in one phase must be under contract before construction is started on the next phase in terms of the buildings. A solution to the problem of drainage structures and buffer areas to the satisfaction of Mr. Ferrerio. Subdivision approval to be contingent upon implementation of the site plan which means qualification for building permits. Compliance with the many, many recommendations set forth in the August 8, 2012 report of Mr. Ferriero. I will make it to the satisfaction of Mr. Ferriero and satisfaction of any recommendations set forth in the August 8, 2012 report of Ms. Caldwell with the typical conditions subject to all other developer approvals that are required compliance with laws, and pay your escrows.

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Chairman Le Frois stated: I know we talked about one of the very first orders of work would be the buffer and the fence.

Mr. Donohue stated: The fence will go in before any road, utility or building construction.

Chairman Le Frois asked: Can the rear portion of the lot be graded, trees put in, fence put up and then you can continue the rest of the work.

Mr. Torre stated: We want the residents to know we are fighting on behalf of their issues.

Mr. Soloway stated: I anticipate that things may tweak slightly between the preliminary and the final. I would also suggest that you notice for final even though you are not required to do so.

Mr. Flaherty made the motion based on what Mr. Soloway outlined. Mr. Steinberg seconded the motion.

AYE: Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Russo, Mr. Steinberg, Chairman Le Frois

ADJOURNMENT

Chairman Le Frois made a motion to adjourn the meeting. The meeting was adjourned at 8:37 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on October 17, 2012, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary